

E-filing

ORIGINAL
FILED
MAY 24 2007
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

STEPHEN M. HAYES (SBN 83583)
STEPHEN P. ELLINGSON (SBN 136505)
JAMIE A. RADACK (SBN 221000)
HAYES DAVIS BONINO ELLINGSON McLAY & SCOTT, LLP
203 Redwood Shores Pkwy., Suite 480
Redwood City, CA 94065
Telephone: 650.637-9100
Facsimile: 650.637-8071

Attorney for Defendant
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES BROWN,
Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY; and DOES 1
through 25, inclusive,
Defendants.

CASE NO. **C07-02743**
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY'S NOTICE OF
REMOVAL OF CIVIL ACTION UNDER
28 U.S.C. SECTIONS 1332 AND 1441(a)
[DIVERSITY JURISDICTION];
DEMAND FOR JURY TRIAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendant STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY (hereinafter "State Farm") hereby removes to this Court the state action
described below:

1. State Farm is a defendant in the civil action commenced on January 5, 2007 in the Superior Court of the State of California, County of Alameda, Case No. RG07304927, entitled Brown v. State Farm Mutual Automobile Insurance Company. State Farm was served with a copy of the complaint on or about January 30, 2007. A true and correct copy of the Complaint is attached hereto as Exhibit "1" and is incorporated as part of this notice. The Complaint did not allege sufficient information to support diversity jurisdiction and, for that reason, was not removable. Specifically, consistent with California Code of Civil Procedure section 425.10(b),

138493

-1-

1 the Complaint did not allege the amount of any damages that would establish the
2 amount in controversy exceeded \$75,000. As such, the initial Complaint was not
3 removable within the meaning of 28 U.S.C. § 1446(b).

4 3. Attached hereto as Exhibit "2" is a true and correct copy of the First Amended
5 Complaint, which was filed on February 9, 2007. The First Amended Complaint
6 also did not allege the amount of any damages that would establish the amount in
7 controversy exceeded \$75,000. As such, the First Amended Complaint did not
8 disclose this matter was removable within the meaning of 28 U.S.C. § 1446(b).

9 4. State Farm filed an answer to the First Amended Complaint on March 27, 2007.
10 Attached hereto as Exhibit "3" is a true and correct copy of State Farm's answer.

11 5. State Farm propounded written discovery, including Cal. Judicial Council Form
12 Interrogatories, Special Interrogatories and a Request for Statement of Damages. On
13 May 21, 2007 State Farm received responses to these written discovery items.
14 Plaintiff's responses to discovery establish the amount in controversy exceeds
15 \$75,000. Since plaintiff's Complaint and First Amended Complaint were not
16 removable because they did not provide sufficient information to establish diversity
17 jurisdiction, plaintiff's responses to discovery on May 21, 2007 constituted State
18 Farm's first receipt of any "paper" from which State Farm could ascertain that the
19 case was removable within the meaning of 28 U.S.C. § 1446(b). (*Bosky v. Kroger*
20 *Texas, LP* (5th Cir. 2002) 288 F.3d 208, 211-212; *Chapman v. Powermatic, Inc.* (5th
21 Cir. 1992) 969 F.2d 160, 164.)

22 6. Plaintiff's discovery responses establish the amount in controversy exceeds \$75,000
23 based on the nature and amount of damages claimed. Attached hereto as "Exhibit 4"
24 and "Exhibit 5" are true and correct copies of State Farm's Form Interrogatories, Set
25 One and plaintiff's responses. Attached hereto as "Exhibit 6" and "Exhibit 7" are
26 true and correct copies of State Farm's Special Interrogatories, Set One and
27 plaintiff's responses. Attached hereto as "Exhibit 8" and "Exhibit 9" are true and
28 correct copies of State Farm's Request for Statement of Damages and plaintiff's

1 response.

2 7. The fact that the amount in controversy exceeds \$75,000 is established by plaintiff's
3 discovery responses and allegations in the Complaint and First Amended Complaint.
4 Plaintiff claims \$42,000 as the value of his claim that State Farm has not paid
5 allegedly in breach of the insurance contract. (Exhibits 4 and 5, response to
6 interrogatory 7.1; Exhibits 8 and 9, Statement of Damages item no. 6.) Plaintiff
7 claims general damages "in excess of" \$25,000. (Exhibits 8 and 9, Statement of
8 Damages item no. 7.) These discovery responses specifically itemize damages
9 totaling \$67,000. Plaintiff also alleges entitlement to attorney fees as an element of
10 his special damages on a theory that plaintiff incurred these so-called *Brandt* fees to
11 recover unreasonably withheld policy benefits. *Brandt v. Superior Court*, 37 Cal.3d
12 813 (1985). Complaint, Prayer for Relief, Item No. 4. This claim for attorneys fees
13 as damages totals at least \$14,000 if plaintiff's counsel has a contingency fee
14 contract (33% of \$42,000) and would far exceed that amount if plaintiff's counsel
15 has an hourly fee agreement. Thus plaintiff's claimed damages total at least
16 \$81,000.

17 8. Additionally, plaintiff asserts a claim for punitive damages. The prayer for punitive
18 damages is based on an alleged course of conduct from which one can infer the
19 punitive damage claim alone exceeds \$75,000. These allegations in and of
20 themselves establish the amount in controversy exceeds \$75,000.

21 9. This action is a civil action of which this Court has original jurisdiction under 28
22 U.S.C. section 1332, and is one that may be removed to this Court by State Farm
23 pursuant to the provisions of 28 U.S.C. section 1441, subdivision (a), in that it is a
24 civil action wherein the matter in controversy exceeds the sum of \$75,000 exclusive
25 of interest and costs, and is between citizens of different states.

26 10. At the time of the commencement of this action, and at all times since, State Farm
27 has been, and still is, a corporation of the State of Illinois, being incorporated under
28 the laws of Illinois, and has had and continues to have its principal place of business

1 in Illinois. Plaintiff James Brown has been and continues to be a citizen of the State
2 of California, having been a resident of the State of California.

3 11. This action was brought in the State of California. This corporate defendant is not,
4 at the time of the institution of this action, and is not now, a corporation incorporated
5 under the laws of the State of California, and does not have at the time of the
6 institution of this action, and does not have now, its principal place of business in
7 California.

8 12.

9 **DEMAND FOR JURY TRIAL**

10 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY hereby demands a
11 trial by jury.

12
13 Dated: May 23, 2007

HAYES DAVIS BONINO ELLINGSON
McLAY & SCOTT, LLP

14
15
16 By 

STEPHEN M. HAYES
STEPHEN P. ELLINGSON
JAMIE A. RADACK
Attorneys for Defendant
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

EXHIBIT 1

**ENDORSED
FILED
ALAMEDA COUNTY**

JAN 05 2007

CLERK OF THE SUPERIOR COURT

By T. WOOD Deputy

1 JOHN T. BELL, SBN 209941
2 Law Offices of John T. Bell
3 610-16th Street, Suite 421
4 Oakland, CA 94612
5 TEL: 510-444-4638
6 FAX: 510-444-4019

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA-UNLIMITED JURISDICTION**

10 *Rene C. Davidson*

RG07304927

11 JAMES BROWN)

Case No.

12 Plaintiff,)

13 vs.)

14 STATE FARM GENERAL INSURANCE)
15 COMPANY AND DOES 1 through 25)
16 INCLUSIVE,)

17 Defendants.)

**COMPLAINT FOR DAMAGES:
BREACH OF CONTRACT,
BREACH OF DUTY OF GOOD
FAITH AND FAIR DEALING,
INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS,
NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS, AND
DEMAND FOR JURY TRIAL**

18
19 COMES NOW Plaintiff, JAMES BROWN ("PLAINTIFF"), alleges as follows:

20 **INTRODUCTION**

21 1. PLAINTIFF at all times herein mentioned was, and is, a resident of the state of
22 California.

23 2. PLAINTIFF is informed and believes, and on that basis alleges, that defendant
24 STATE FARM GERNEAL INSURANCE COMPANY at all times herein relevant was, and now
25 is, a corporation licensed to do business and actually doing business as an insurer and issuing
26 insurance policies in the state of California.
27
28

**COMPLAINT FOR DAMAGES: BREACH OF CONTRACT, BREACH OF DUTY OF GOOD FAITH AND
FAIR DEALING, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, NEGLIGENT INFLICTION
OF EMOTIONAL DISTRESS; AND DEMAND FOR JURY TRIAL**

1
2 3. The true names or capacities, whether individual, corporate, associate or
3 otherwise, of defendants names herein as DOES 1 through 25, inclusive, are unknown to plaintiff
4 at this time, who therefore sues said defendants by such fictitious names. Plaintiff is informed
5 and believes and therefore alleges that each if the defendants designated herein by fictitious
6 name is in some manner responsible for the events and happenings herein referred to, and caused
7 damages proximately and foreseeably thereby to plaintiff as hereinafter alleged. Plaintiff asks
8 leave of Court to amend this Complaint when the true names and capacities have been
9 ascertained.
10

11
12 4. That at all times herein mentioned, each and every defendant herein was the
13 agent, servant, employee, partner of joint venturer of the other defendants herein; that at all
14 times, each of said defendants was acting within the course and scope of said agency, service,
15 employment, partnership or joint venture.
16

17 GENERAL ALLEGATIONS

18 5. Prior to May 3, 2006, PLAINTIFF entered into a written contract of insurance in
19 Alameda County, California with defendants, STATE FARM GENERAL INSURANCE
20 COMPANY and DOES 1 thru 25, (collectively" DEFANDANTS").

21 6. Each year, up to and including the present time, defendant STATE FARM
22 GENERAL INSURANCE COMPANY reissued the Policy to PLAINTIFF. Said contract was
23 assigned a policy number of 0994048B
24

25 7. At the time of the filing of this Complaint, PLAINTIFF does not possess a copy
26 of said contract. However, PLAINTIFF anticipates that he will obtain a copy of said contract
27 through the discovery process.
28

1
2 8. Among other things, the Policy provided full coverage insurance for a 2004
3 Harley Davidson Road King motorcycle, VIN 1HD1FBW324Y727307.

4 9. On or about May 3, 2006 while the above reference insurance policy was in full
5 force and effect, the aforementioned motorcycle was stolen.

6
7 10. On or about May 4, 2006, PLAINTIFF opened a claim with the defendants for
8 policy benefits.

9
10 **FIRST CAUSE OF ACTION**
(Breach of Contract Against All Defendants)

11 11. PLAINTIFF incorporates by reference each and every allegation of the
12 Complaint as though set forth in this cause of action.

13 12. On or about May 4, 2006, PLAINTIFF made a claim for insurance benefits under
14 the State Farm insurance policy for loss of his stolen motorcycle.

15 13. From the date that PLAINTIFF opened a claim with the defendants, the
16 defendants and each of them breached the terms and provisions of the insurance policy identified
17 herein by not attempting to settle PLAINTIFF'S claim, never returning PLAINTIFF'S telephone
18 calls regarding the status of his claim, and refusing to timely provide policy benefits.

19 14. PLAINTIFF has performed all of the terms and conditions of the policy and has
20 performed all obligations under said insurance policy on PLAINTIFF'S part to be performed.

21 15. As a proximate result of defendants' breach of insurance contract as alleged
22 herein, plaintiff has been damaged in a sum in excess of the jurisdiction of this court, plus
23 interest, including prejudgment interest, from on or about May 3, 2006, to present, in an amount
24 to be proven at trial.
25
26
27
28

1 WHEREFORE, PLAINTIFF prays for judgment against defendants, STATE FARM
 2 GENERAL INSURANCE COMPANY and DOES 1 thru 25 and each of them, as hereinafter set
 3 forth below.

4
 5 **SECOND CAUSE OF ACTION**
 6 **(Breach of the Implied Covenant of Good Faith and Fair Dealing**
Against All Defendants)

7 As and for a separate and distinct Second Cause of Action, PLAINTIFF complains
 8 against defendants, STATE FARM GENERAL INSURANCE COMPANY and DOES 1 thru 25
 9 as follows.

10 16. PLAINTIFF incorporates by reference each and every allegation of the Complaint
 11 as though set forth in this cause of action.
 12

13 17. At all times herein relevant, said defendants agreed to act in good faith and deal
 14 fairly with said plaintiff in all matters related to the policy, and insurance claims arising from
 15 losses covered under the insurance policy.

16 18. Said defendants assumed a special relationship with, and fiduciary obligations to,
 17 and agreed to abide by the duties commensurate with these obligations. Nevertheless, said
 18 defendants refused and failed to act in good faith and deal fairly with plaintiff, and breached said
 19 obligations, as set forth more particularly below.
 20

21 19. Said defendants engaged and continued to engage in an unreasonable course of
 22 conduct to further their economic interests in violation of their contractual and fiduciary
 23 obligations to plaintiff, including but not limited to:
 24

25 (a) Unreasonable and bad faith failure to make a full and fair settlement of plaintiff's loss
 26 property claim:
 27
 28

1 (b) Unreasonable misrepresentation to plaintiff pertinent facts related to insurance
2 coverage and no attempts to settle plaintiff's claim under said policy;

3 (c) Bad faith failure to reasonably and promptly investigate, adjust, and process
4 plaintiff's claim for damage;

5 (d) Not attempting in good faith to effectuate a prompt, fair and equitable settlement of
6 plaintiff's claim for damage;

7 (e) Unreasonable refusal to place the financial interest of plaintiff on an equal par with
8 defendants' own financial interests;

9 (f) Other wrongful and illegal conduct according to proof at trial; and,

10 (g) Intentional and willful deprivation of plaintiff of insurance benefits to which plaintiff
11 was entitled to under the insurance policy without making a full and complete investigation with
12 regard to the damages suffered by plaintiff; was intended by defendants to cause injury to the
13 plaintiff in that despite the fact that defendants had proof of the damage, they failed to engage in
14 settlement negotiations with PLAINTIFF. Such conduct by the defendants was carried on with a
15 conscious disregard of the rights of plaintiff.
16

17
18 20. As a direct and proximate result of the aforementioned conduct of defendants,
19 and each of them, plaintiff have suffered mental and emotional distress, including but not limited
20 to, frustration, depression, nervousness and anxiety, and have thereby incurred general damages
21 in a sum in excess of the jurisdiction of this Court, all to be determined at the time of trial.
22

23 21. As a further direct and proximate result of defendants' breach of the duty of good
24 faith and fair dealing as alleged herein, plaintiff has been damaged in a sum in excess of the
25 jurisdiction of this court, plus interest, all in amount to be determined at time of trial.
26
27
28

1 22. As a further direct and proximate result of aforementioned conduct of defendants,
2 and each of them, plaintiff have suffered special damages in an amount according to proof at the
3 time of the trial, from the lack of availability of said sums to him.

4 23. As a further proximate result of the unreasonable conduct of the defendants,
5 plaintiff was compelled to retain legal counsel to obtain the benefits due under the policy.
6 Therefore, defendants are liable to plaintiff for those costs of suit and attorneys' fees reasonably
7 necessary and incurred by plaintiff in order to obtain the policy benefits in an amount to be
8 determined as the time of trial.

9 24. The acts alleged were part of defendants' and each of them, inclusive, ordinary
10 business practice designed to keep from paying policy benefits which were and legitimately
11 owed to the plaintiff in order to increase the defendants' profits. In doing so, and in doing the
12 acts set forth above, the defendants acted despicably, willfully, wantonly, oppressively,
13 fraudulently and/or in conscious disregard of the plaintiff's rights.

14 25. PLAINTIFF therefore seeks exemplary damages in a sum to be set by the jury in
15 an amount sufficient to punish the defendants and to be certain that they never again perpetrate
16 such evils upon Policyholders.

17 WHEREFORE, PLAINTIFF prays for judgment against defendants, STATE FARM
18 GENERAL INSURANCE COMPANY, and DOES 1 through 25, and each of them, as
19 hereinafter set forth below.

20 ///

21 ///

22 ///

23 ///

THIRD CAUSE OF ACTION

(Intentional Infliction of Emotional Distress Against All Defendants)

As and for a separate and distinct Third Cause of Action, PLAINTIFF complains against defendants, STATE FARM GENERAL INSURANCE COMPANY, and DOES 1 through 25, and each of them as follows.

26. PLAINTIFF incorporates by reference each and every allegation of the Complaint as though set forth in this cause of action.

27. Defendants' conduct in failing to timely provide insurance benefits to plaintiff as set forth hereinabove, was intentional and malicious and placed defendants' financial interests above the interests of the plaintiff.

28. Defendants' conduct was done with knowledge that plaintiff's emotional and physical distress would thereby increase, and was done in wanton and reckless disregard with the consequences to the plaintiff.

29. As a proximate result to the aforementioned acts, the plaintiff has suffered extreme humiliation, serious and severe mental anguish and emotional and physical distress and has been injured in mind and body all to his damage in an amount according to proof as the time of trial.

30. Defendants' conduct of intentionally and willfully defrauding plaintiff and depriving plaintiff of the benefits from the policy and insurance benefits to which plaintiff was entitled were intended by defendants to cause injury to the plaintiff. Such conduct by the defendants was carried on with a conscious disregard of the rights of plaintiff. Plaintiff's loss was and is substantial. Such conduct on the part of defendants constitutes outrageous conduct for which plaintiff is entitled to damages, since defendants' conduct was intentional, extreme and willful.

1 31. The conduct of defendants and each of them as described hereinabove was
2 despicable and fraudulent and was further done willfully, oppressively, maliciously, or with
3 conscious disregard of the rights of plaintiff, and with the intent to annoy, harass or injure
4 plaintiff such that plaintiff is entitled to a recovery of exemplary damages.
5

6 WHEREFORE, PLAINTIFF prays for judgment against defendants, STATE
7 FARM GENERAL INSURANCE COMPANY, and DOES 1 through 25, and each of them and
8 each of them, as hereinafter set forth below.

9 **FOURTH CAUSE OF ACTION**
10 **(Negligent Infliction of Emotional Distress Against All Defendants)**

11 As and for a separate and distinct Fourth Cause of Action, PLAINTIFF complains against
12 defendants, STATE FARM GENERAL INSURANCE COMPANY, and DOES 1 through 25,
13 and each of them as follows.

14 32. PLAINTIFF incorporates by reference each and every allegation of the Complaint
15 as though set forth in this cause of action.
16

17 33. Defendants knew or should have known that defendants' failure to exercise due
18 care by failing to respond to plaintiff's inquiries regarding the status of the claim, and failure to
19 timely provide insurance benefits and coverage to plaintiff for the claims made and filed for
20 benefits which were provided for under the policy, would cause plaintiff severe emotional
21 distress.
22

23 34. Defendants knew or should have known that their failure to respond to plaintiff's
24 inquiries was a breach of their duties and they further breached their duty to plaintiff by failing,
25 refusing, and delaying payment of plaintiff's claims, causing plaintiff humiliation, anxiety and
26 emotional distress for this delay.
27
28

35. As the proximate result of defendants' conduct, plaintiff has suffered extreme emotional distress.

WHEREFORE, PLAINTIFF prays for judgment against defendants, STATE FARM GENERAL INSURANCE COMPANY, and DOES 1 through 25, and each of them and each of them, as hereinafter set forth below

PRAYER

WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as follows:

1. For damages for failure to provide benefits under the policy, plus interest, including prejudgment interest in the sum which is to be determined at the time of trial;
2. For general damages to be determined at the time of trial;
3. For special damages to be determined at the time of trial;
4. For attorneys' fees and costs and expenses reasonably incurred to obtain the policy benefits in the sum to be determined at the time of trial;
5. For exemplary damages in an amount appropriate to punish or set an example of defendants;
6. For interest, including prejudgment interest, allowable by law;
7. For costs of suit herein incurred;
8. For such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff demands a trial by jury on all issues in this action.

DATED: January 3, 2007

LAW OFFICES OF JOHN T. BELL


JOHN T. BELL
Attorney for Plaintiff James Brown

EXHIBIT 2

1 JOHN T. BELL, SBN 209941
2 Law Offices of John T. Bell
3 610-16th Street, Suite 421
4 Oakland, CA 94612
5 TEL: 510-444-4638
6 FAX: 510-444-4019

ENDORSED
FILED
ALAMEDA COUNTY

FEB 09 2007

CLERK OF THE SUPERIOR COURT
By M. Hayes Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA-UNLIMITED JURISDICTION

10 JAMES BROWN

11)
12) Plaintiff,
13) vs.

14 STATE FARM MUTUAL AUTOMOBILE
15 INSURANCE COMPANY AND DOES 1
16 through 25 INCLUSIVE,
17 Defendants.
18)

Case No. RG07304927

FIRST AMENDED COMPLAINT
FOR DAMAGES: BREACH OF
CONTRACT, BREACH OF DUTY
OF GOOD FAITH AND FAIR
DEALING, AND DEMAND FOR
JURY TRIAL

19 COMES NOW Plaintiff, JAMES BROWN ("PLAINTIFF"), alleges as follows:

20 INTRODUCTION

21 1. PLAINTIFF at all times herein mentioned was, and is, a resident of the state of
22 California.

23 2. PLAINTIFF is informed and believes, and on that basis alleges, that defendant
24 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY at all times herein
25 relevant was, and now is, a corporation licensed to do business and actually doing business as an
26 insurer and issuing insurance policies in the state of California.
27
28

1 3. The true names or capacities, whether individual, corporate, associate or
2 otherwise, of defendants names herein as DOES 1 through 25, inclusive, are unknown to plaintiff
3 at this time, who therefore sues said defendants by such fictitious names. Plaintiff is informed
4 and believes and therefore alleges that each if the defendants designated herein by fictitious
5 name is in some manner responsible for the events and happenings herein referred to, and caused
6 damages proximately and foreseeably thereby to plaintiff as hereinafter alleged. Plaintiff asks
7 leave of Court to amend this Complaint when the true names and capacities have been
8 ascertained.
9

10 4. That at all times herein mentioned, each and every defendant herein was the
11 agent, servant, employee, partner of joint venturer of the other defendants herein; that at all
12 times, each of said defendants was acting within the course and scope of said agency, service,
13 employment, partnership or joint venture.
14

15 GENERAL ALLEGATIONS

16 5. Prior to May 3, 2006, PLAINTIFF entered into a written contract of insurance in
17 Alameda County, California with defendants, STATE FARM MUTUAL AUTOMOBILE
18 INSURANCE COMPANY and DOES 1 thru 25, (collectively" DEFANDANTS").
19

20 6. Each year, up to and including the present time, defendant STATE FARM
21 MUTUAL AUTOMOBILE INSURANCE COMPANY reissued the Policy to PLAINTIFF. Said
22 contract was assigned a policy number of 0994048B.
23

24 7. At the time of the filing of this Complaint, PLAINTIFF does not possess a copy
25 of said contract. However, PLAINTIFF anticipates that he will obtain a copy of said contract
26 through the discovery process.
27
28

1 8. Among other things, the Policy provided full coverage insurance for a 2004
2 Harley Davidson Road King motorcycle, VIN 1HD1FBW324Y727307.

3 9. On or about May 3, 2006 while the above reference insurance policy was in full
4 force and effect, the aforementioned motorcycle was stolen.

5 10. On or about May 4, 2006, PLAINTIFF opened a claim with the defendants for
6 policy benefits.

7
8 **FIRST CAUSE OF ACTION**
9 **(Breach of Contract Against All Defendants)**

10 11. PLAINTIFF incorporates by reference each and every allegation of the
11 Complaint as though set forth in this cause of action.

12 12. On or about May 4, 2006, PLAINTIFF made a claim for insurance benefits under
13 the State Farm insurance policy for loss of his stolen motorcycle.

14 13. From the date that PLAINTIFF opened a claim with the defendants, the
15 defendants and each of them breached the terms and provisions of the insurance policy identified
16 herein by not attempting to settle PLAINTIFF'S claim, never returning PLAINTIFF'S telephone
17 calls regarding the status of his claim, and refusing to timely provide policy benefits.

18 14. PLAINTIFF has performed all of the terms and conditions of the policy and has
19 performed all obligations under said insurance policy on PLAINTIFF'S part to be performed.

20 15. As a proximate result of defendants' breach of insurance contract as alleged
21 herein, plaintiff has been damaged in a sum in excess of the jurisdiction of this court, plus
22 interest, including prejudgment interest, from on or about May 3, 2006, to present, in an amount
23 to be proven at trial.
24
25
26
27
28

1 WHEREFORE, PLAINTIFF prays for judgment against defendants, STATE FARM
2 MUTUAL AUTOMOBILE INSURANCE COMPANY and DOES 1 thru 25 and each of them,
3 as hereinafter set forth below.

4
5 **SECOND CAUSE OF ACTION**
6 **(Breach of the implied Covenant of Good Faith and Fair Dealing**
7 **Against All Defendants)**

8 As and for a separate and distinct Second Cause of Action, PLAINTIFF complains
9 against defendants, STATE FARM GENERAL INSURANCE COMPANY and DOES 1 thru 25
10 as follows.

11 16. PLAINTIFF incorporates by reference each and every allegation of the Complaint
12 as though set forth in this cause of action.

13 17. At all times herein relevant, said defendants agreed to act in good faith and deal
14 fairly with said plaintiff in all matters related to the policy, and insurance claims arising from
15 losses covered under the insurance policy. Nevertheless, said defendants refused and failed to act
16 in good faith and deal fairly with plaintiff, and breached said obligations, as set forth more
17 particularly below.

18 18. Said defendants engaged and continued to engage in an unreasonable course of
19 conduct to further their economic interests in violation of their contractual obligations to plaintiff,
20 including but not limited to:

21 (a) Unreasonable and bad faith failure to make a full and fair settlement of plaintiff's loss
22 property claim:

23 (b) Unreasonable misrepresentation to plaintiff pertinent facts related to insurance
24 coverage and no attempts to settle plaintiff's claim under said policy;

25 (c) Bad faith failure to reasonably and promptly investigate, adjust, and process
26
27
28

1 plaintiff's claim for damage;

2 (d) Not attempting in good faith to effectuate a prompt, fair and equitable settlement of
3 plaintiff's claim for damage;

4 (e) Unreasonable refusal to place the financial interest of plaintiff on an equal par with
5 defendants' own financial interests;

6 (f) Other wrongful and illegal conduct according to proof at trial; and,

7 (g) Intentional and willful deprivation of plaintiff of insurance benefits to which plaintiff
8 was entitled to under the insurance policy without making a full and complete investigation with
9 regard to the damages suffered by plaintiff; was intended by defendants to cause injury to the
10 plaintiff in that despite the fact that defendants had proof of the damage, they failed to engage in
11 settlement negotiations with PLAINTIFF. Such conduct by the defendants was carried on with a
12 conscious disregard of the rights of plaintiff.

13
14
15 19. As a direct and proximate result of the aforementioned conduct of defendants,
16 and each of them, plaintiff has suffered mental and emotional distress, including but not limited
17 to, frustration, depression, nervousness and anxiety, and has thereby incurred general damages in
18 a sum in excess of the jurisdiction of this Court, all to be determined at the time of trial.

19
20 20. As a further direct and proximate result of defendants' breach of the duty of good
21 faith and fair dealing as alleged herein, plaintiff has been damaged in a sum in excess of the
22 jurisdiction of this court, plus interest, all in amount to be determined at time of trial.

23
24 21. As a further direct and proximate result of aforementioned conduct of defendants,
25 and each of them, plaintiff has suffered special damages in an amount according to proof at the
26 time of the trial, from the lack of availability of said sums to him.

24. PLAINTIFF therefore seeks exemplary damages in a sum to be set by the jury in an amount sufficient to punish the defendants and to be certain that they never again perpetrate such evils upon Policyholders.

PRAYER

1. For damages for failure to provide benefits under the policy, plus interest, including prejudgment interest in the sum which is to be determined at the time of trial;

3. For special damages to be determined at the time of trial:

5. For exemplary damages in an amount appropriate to punish or set an example of defendants;
6. For interest, including prejudgment interest, allowable by law;
7. For costs of suit herein incurred;
8. For such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff demands a trial by jury on all issues in this action.

DATED: February 8, 2007

LAW OFFICES OF JOHN T. BELL


JOHN T. BELL

Attorney for Plaintiff James Brown

1 **CASE NAME: Brown v. State Farm**

2 **ACTION NO.: RG07304927**

3
4 **PROOF OF SERVICE**

5
6 I am a citizen of the United States. My business address is 610 – 16TH St., Ste.
7 421, Oakland, CA 94612. I am employed in the County of Alameda where this service occurs. I
8 am over the age of 18 years, and not a party to the within cause. I am readily familiar with my
9 employer's normal business practice for collection and processing of correspondence for mailing
10 with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S.
11 Postal Service the same day of collection in the ordinary course of business.

12 On the date set forth below, following ordinary business practice, I served a true copy of the
13 foregoing document(s) described as: **SUMMONS ON FIRST AMENDED COMPLAINT AND**
14 **FIRST AMENDED COMPLAINT FOR DAMAGES: BREACH OF CONTRACT, BREACH OF**
DUTY OF GOOD FAITH AND FAIR DEALING, AND DEMAND FOR JURY TRIAL

15 _____ (BY Personal Delivery) by personally delivering true copies to said person at the
16 following address:

17 ✓ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be place in
18 the United States mail at Oakland, California to said person at the following address:

19
20 Stephen M. Hayes
21 Haycs Davis Bonino
22 203 Redwood Shores Pkwy., Suite 480
Redwood Shore, CA 94065

23 I declare under penalty of perjury under the laws of the State of California that the above
24 is true and correct.

25 Executed on February 9, 2007 at Oakland, California.

26 
27 Felicia E. Jones
28

EXHIBIT 3

ENDORSED
FILED
ALAMEDA COUNTY
07 MAR 27 PM 12:04
CLERK OF THE SUPERIOR COURT
BY BARBARA C. YOUNG, DEPUTY

1 STEPHEN M. HAYES (SBN 83583)
2 STEPHEN P. ELLINGSON (SBN 136505)
3 JAMIE A. RADACK (SBN 221000)
4 HAYES DAVIS BONINO ELLINGSON McLAY & SCOTT, LLP
5 203 Redwood Shores Pkwy., Suite 480
6 Redwood City, CA 94065
7 Telephone: 650.637-9100
8 Facsimile: 650.637-8071

9 Attorney for Defendant
10 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA - UNLIMITED JURISDICTION

JAMES BROWN,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY; and DOES 1
through 25, inclusive,

Defendants.

CASE NO. RG07304927

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY'S ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT

FAXED

Defendant State Farm Mutual Automobile Insurance Company, in answer to the unverified Complaint of plaintiff herein, denies each and every, all and singular, the allegation of the unverified Complaint, and in this connection defendant denies that plaintiff has been injured or damaged in any of the sums mentioned in the Complaint, or in any sum, or at all as the result of any act or omission of this answering defendant.

AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this answering defendant alleges that said complaint fails to state facts sufficient to constitute a cause of action against this answering defendant.

AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this answering defendant alleges that at all times and places mentioned in the Complaint herein,

1 plaintiff failed to mitigate the amount of his damages. The damages claimed by plaintiff could have
2 been mitigated by due diligence on his part or by one acting under similar circumstances. Plaintiff's
3 failure to mitigate is a bar to his recovery under the Complaint.

4 AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
5 FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this
6 answering defendant alleges that the injuries allegedly sustained by plaintiff were either wholly or
7 in part caused by plaintiff or persons, firms, corporations or entities other than these answering
8 defendants, and whose acts or omissions are imputed to plaintiff as a matter of law.

9 AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT
10 ON FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN,
11 this answering defendant alleges that plaintiff cannot assert any contractual claims set forth in his
12 Complaint because plaintiff prevented performance of said contract.

13 AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
14 FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this
15 answering defendant alleges on information and belief that plaintiff cannot assert any of the
16 contractual claims contained in his Complaint because plaintiff materially breached said contract.

17 AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
18 FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this
19 answering defendant alleges on information and belief that the sole and proximate cause of the
20 circumstances and events complained of by plaintiff in the Complaint was due to the acts or
21 omissions of persons and entities other than this answering defendant.

22 AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT
23 ON FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN,
24 this answering defendant alleges that said complaint fails to state facts sufficient to constitute a
25 claim for exemplary or punitive damages pursuant to §3294 of the Civil Code.

26 AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT
27 ON FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN,
28 this answering defendant alleges that plaintiff's Complaint, to the extent that it seeks exemplary or

1 punitive damages pursuant to §3294 of the Civil Code, violates defendant's right to procedural due
 2 process under the Fourteenth Amendment of the United States Constitution, and the Constitution of
 3 the State of California, and therefore fails to state a cause of action upon which either punitive or
 4 exemplary damages can be awarded.

5 AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
 6 FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this
 7 answering defendant alleges that plaintiff's Complaint, to the extent that it seeks punitive or
 8 exemplary damages pursuant to §3294 of the Civil Code, violates defendant's rights to protection
 9 from "excessive fines" as provided in the Eighth Amendment of the United States Constitution and
 10 Article I, Section 17, of the Constitution of the State of California, and violates defendant's rights to
 11 substantive due process as provided in the Fifth and Fourteenth Amendments of the United States
 12 Constitution and the Constitution of the State of California, and therefore fails to state a cause of
 13 action supporting the punitive or exemplary damages claimed.

14 AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE COMPLAINT ON
 15 FILE HEREIN, AND TO EACH ALLEGED CAUSE OF ACTION CONTAINED THEREIN, this
 16 answering defendant alleges that plaintiff's Complaint is barred by the litigation privilege of Civil
 17 Code section 47.

18 WHEREFORE, this answering defendant prays for judgment as follows:

- 19 1. That plaintiff take nothing by the Complaint;
- 20 2. For costs of suit incurred herein; and
- 21 3. For such other and further relief as the Court deems proper.

22 Dated: March 27, 2007

HAYES DAVIS BONINO ELLINGSON
 McLAY & SCOTT, LLP

23
 24 By 

25 STEPHEN M. HAYES
 26 STEPHEN P. ELLINGSON
 27 JAMIE A. RADACK
 Attorneys for Defendant
 28 STATE FARM MUTUAL AUTOMOBILE
 INSURANCE COMPANY

CASE NAME: Brown v. State Farm
ACTION NO.: RG07304927

PROOF OF SERVICE

I am a citizen of the United States. My business address is 203 Redwood Shores Pkwy., Ste. 480, Redwood Shores, California 94065. I am employed in the County of San Mateo where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S ANSWER
TO PLAINTIFF'S FIRST AMENDED COMPLAINT

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Redwood City, California.
- ☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

John T. Bell
LAW OFFICES OF JOHN T. BELL
610 - 16th Street, Suite 421
Oakland, CA 94612
Telephone: 510.444.4638
Facsimile: 510.444.4019

Attorneys for Plaintiff
JAMES BROWN

- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 27, 2007, at Redwood City, California.


Abigail Bowman

EXHIBIT 4

DISC-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) STEPHEN P. ELLINGSON (SBN 136505)/JAMIE A. RADACK (SBN 221000) HAYES DAVIS BONINO ELLINGSON McLAY & SCOTT, LLP 203 Redwood Shores Parkway, Suite 480, Redwood City, CA 94065 TELEPHONE NO: (650) 637-9100 FAX NO. (Optional): (650) 637-8071 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <p style="text-align: center;">ALAMEDA</p>	
SHORT TITLE OF CASE: <p style="text-align: center;">Brown v. State Farm</p>	
FORM INTERROGATORIES—GENERAL Asking Party: Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY Answering Party: Plaintiff JAMES BROWN Set No.: One	CASE NUMBER <p style="text-align: center;">RG07304927</p>

Sec. 1. Instructions to All Parties

(a) Interrogatories are written questions prepared by a party to an action that are sent to any other party in the action to be answered under oath. The interrogatories below are form interrogatories approved for use in civil cases.

(b) For time limitations, requirements for service on other parties, and other details, see Code of Civil Procedure sections 2030.010–2030.410 and the cases construing those sections.

(c) These form interrogatories do not change existing law relating to interrogatories nor do they affect an answering party's right to assert any privilege or make any objection.

Sec. 2. Instructions to the Asking Party

(a) These interrogatories are designed for optional use by parties in unlimited civil cases where the amount demanded exceeds \$25,000. Separate Interrogatories, Form Interrogatories—Limited Civil Cases (Economic Litigation) (form DISC-004), which have no subparts, are designed for use in limited civil cases where the amount demanded is \$25,000 or less; however, those interrogatories may also be used in unlimited civil cases.

(b) Check the box next to each interrogatory that you want the answering party to answer. Use care in choosing those interrogatories that are applicable to the case.

(c) You may insert your own definition of INCIDENT in Section 4, but only where the action arises from a course of conduct or a series of events occurring over a period of time.

(d) The Interrogatories in section 16.0, Defendant's Contentions—Personal Injury, should not be used until the defendant has had a reasonable opportunity to conduct an investigation or discovery of plaintiff's injuries and damages.

(e) Additional interrogatories may be attached.

Sec. 3. Instructions to the Answering Party

(a) An answer or other appropriate response must be given to each interrogatory checked by the asking party.

(b) As a general rule, within 30 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See Code of Civil Procedure sections 2030.260–2030.270 for details.

(c) Each answer must be as complete and straightforward as the information reasonably available to you, including the information possessed by your attorneys or agents, permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

(d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party.

(e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

(f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(g) If you are asserting a privilege or making an objection to an interrogatory, you must specifically assert the privilege or state the objection in your written response.

(h) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers:

I declare under penalty of perjury under the laws of the State of California that the foregoing answers are true and correct.

(DATE)

(SIGNATURE)

Sec. 4. Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) (Check one of the following):

- ☐ (1) INCIDENT includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

Page 1 of 8

DISC-001

☒ (2) **INCIDENT** means (insert your definition here or on a separate, attached sheet labeled "Sec. 4(a)(2)"): The facts and circumstances surrounding the handling of plaintiff's claim number: 05-5281-694 by defendant State Farm Mutual Automobile Insurance Company.

(b) YOU OR ANYONE ACTING ON YOUR BEHALF

includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON** includes a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

(d) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON** referred to in Code of Civil Procedure section 667.7(a)(3).

(f) **ADDRESS** means the street address, including the city, state, and zip code.

Sec. 5. Interrogatories

The following interrogatories have been approved by the Judicial Council under Code of Civil Procedure section 2039.710:

CONTENTS

1.0 Identity of Persons Answering These Interrogatories
 2.0 General Background Information—Individual
 3.0 General Background Information—Business Entity
 4.0 Insurance
 5.0 [Reserved]
 6.0 Physical, Mental, or Emotional Injuries
 7.0 Property Damage
 8.0 Loss of Income or Earning Capacity
 9.0 Other Damages
 10.0 Medical History
 11.0 Other Claims and Previous Claims
 12.0 Investigation—General
 13.0 Investigation—Surveillance
 14.0 Statutory or Regulatory Violations
 15.0 Denials and Special or Affirmative Defenses
 16.0 Defendant's Contentions Personal Injury
 17.0 Responses to Request for Admissions
 18.0 [Reserved]
 19.0 [Reserved]
 20.0 How the Incident Occurred—Motor Vehicle
 25.0 [Reserved]
 30.0 [Reserved]
 40.0 [Reserved]
 50.0 Contract
 60.0 [Reserved]
 70.0 Unlawful Detainer [See separate form FI-128]
 101.0 Economic Litigation [See separate form FI-129]
 200.0 Employment Law [See separate form FI-130]
 Family Law [See separate form 1292.10]

1.0 Identity of Persons Answering These Interrogatories

☒ 1.1 State the name, **ADDRESS**, telephone number, and relationship to you of each **PERSON** who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

2.0 General Background Information—Individual

☒ 2.1 State:

- (a) your name;
- (b) every name you have used in the past; and
- (c) the dates you used each name.

☒ 2.2 State the date and place of your birth.

☒ 2.3 At the time of the **INCIDENT**, did you have a driver's license? If so state:

- (a) the state or other issuing entity;
- (b) the license number and type;
- (c) the date of issuance; and
- (d) all restrictions.

☒ 2.4 At the time of the **INCIDENT**, did you have any other permit or license for the operation of a motor vehicle? If so, state:

- (a) the state or other issuing entity;
- (b) the license number and type;
- (c) the date of issuance; and
- (d) all restrictions.

☒ 2.5 State:

- (a) your present residence **ADDRESS**;
- (b) your residence **ADDRESSES** for the past five years; and
- (c) the dates you lived at each **ADDRESS**.

☒ 2.6 State:

- (a) the name, **ADDRESS**, and telephone number of your present employer or place of self-employment; and
- (b) the name, **ADDRESS**, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the **INCIDENT** until today.

☒ 2.7 State:

- (a) the name and **ADDRESS** of each school or other academic or vocational institution you have attended, beginning with high school;
- (b) the dates you attended;
- (c) the highest grade level you have completed; and
- (d) the degrees received.

☒ 2.8 Have you ever been convicted of a felony? If so, for each conviction state:

- (a) the city and state where you were convicted;
- (b) the date of conviction;
- (c) the offense; and
- (d) the court and case number.

☒ 2.9 Can you speak English with ease? If not, what language and dialect do you normally use?

☒ 2.10 Can you read and write English with ease? If not, what language and dialect do you normally use?

DISC-001

- ☒ 2.11 At the time of the INCIDENT were you acting as an agent or employee for any PERSON? If so, state:
- (a) the name, ADDRESS, and telephone number of that PERSON; and
 - (b) a description of your duties.

- ☒ 2.12 At the time of the INCIDENT did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the INCIDENT? If so, for each person state:
- (a) the name, ADDRESS, and telephone number;
 - (b) the nature of the disability or condition; and
 - (c) the manner in which the disability or condition contributed to the occurrence of the INCIDENT.

- ☒ 2.13 Within 24 hours before the INCIDENT did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)? If so, for each person state:
- (a) the name, ADDRESS, and telephone number;
 - (b) the nature or description of each substance;
 - (c) the quantity of each substance used or taken;
 - (d) the date and time of day when each substance was used or taken;
 - (e) the ADDRESS where each substance was used or taken;
 - (f) the name, ADDRESS, and telephone number of each person who was present when each substance was used or taken; and
 - (g) the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER who prescribed or furnished the substance and the condition for which it was prescribed or furnished.

3.0 General Background Information—Business Entity

- ☐ 3.1 Are you a corporation? If so, state:
- (a) the name stated in the current articles of incorporation;
 - (b) all other names used by the corporation during the past 10 years and the dates each was used;
 - (c) the date and place of incorporation;
 - (d) the ADDRESS of the principal place of business; and
 - (e) whether you are qualified to do business in California.
- ☐ 3.2 Are you a partnership? If so, state:
- (a) the current partnership name;
 - (b) all other names used by the partnership during the past 10 years and the dates each was used;
 - (c) whether you are a limited partnership and, if so, under the laws of what jurisdiction;
 - (d) the name and ADDRESS of each general partner; and
 - (e) the ADDRESS of the principal place of business.
- ☐ 3.3 Are you a limited liability company? If so, state:
- (a) the name stated in the current articles of organization;
 - (b) all other names used by the company during the past 10 years and the date each was used;
 - (c) the date and place of filing of the articles of organization;
 - (d) the ADDRESS of the principal place of business; and
 - (e) whether you are qualified to do business in California.

- ☐ 3.4 Are you a joint venture? If so, state:
- (a) the current joint venture name;
 - (b) all other names used by the joint venture during the past 10 years and the dates each was used;
 - (c) the name and ADDRESS of each joint venturer; and
 - (d) the ADDRESS of the principal place of business.

- ☐ 3.5 Are you an unincorporated association? If so, state:
- (a) the current unincorporated association name;
 - (b) all other names used by the unincorporated association during the past 10 years and the dates each was used; and
 - (c) the ADDRESS of the principal place of business.

- ☐ 3.6 Have you done business under a fictitious name during the past 10 years? If so, for each fictitious name state:
- (a) the name;
 - (b) the dates each was used;
 - (c) the state and county of each fictitious name filing; and
 - (d) the ADDRESS of the principal place of business.

- ☐ 3.7 Within the past five years has any public entity registered or licensed your business? If so, for each license or registration:
- (a) identify the license or registration;
 - (b) state the name of the public entity; and
 - (c) state the dates of issuance and expiration.

4.0 Insurance

- ☒ 4.1 At the time of the INCIDENT, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro-rata, or excess liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen out of the INCIDENT? If so, for each policy state:
- (a) the kind of coverage;
 - (b) the name and ADDRESS of the insurance company;
 - (c) the name, ADDRESS, and telephone number of each named insured;
 - (d) the policy number;
 - (e) the limits of coverage for each type of coverage contained in the policy;
 - (f) whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company; and
 - (g) the name, ADDRESS, and telephone number of the custodian of the policy.
- ☒ 4.2 Are you self-insured under any statute for the damages, claims, or actions that have arisen out of the INCIDENT? If so, specify the statute.

5.0 [Reserved]

6.0 Physical, Mental, or Emotional Injuries

- ☒ 6.1 Do you attribute any physical, mental, or emotional injuries to the INCIDENT? (If your answer is "no," do not answer interrogatories 6.2 through 6.7).
- ☒ 6.2 Identify each injury you attribute to the INCIDENT and the area of your body affected.

DISC-001

☒ 6.3 Do you still have any complaints that you attribute to the INCIDENT? If so, for each complaint state:

- (a) a description;
- (b) whether the complaint is subsiding, remaining the same, or becoming worse; and
- (c) the frequency and duration.

☒ 6.4 Did you receive any consultation or examination (except from expert witnesses covered by Code of Civil Procedure sections 2034.210-2034.310) or treatment from a HEALTH CARE PROVIDER for any injury you attribute to the INCIDENT? If so, for each HEALTH CARE PROVIDER state:

- (a) the name, ADDRESS, and telephone number;
- (b) the type of consultation, examination, or treatment provided;
- (c) the dates you received consultation, examination, or treatment; and
- (d) the charges to date.

☒ 6.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the INCIDENT? If so, for each medication state:

- (a) the name;
- (b) the PERSON who prescribed or furnished it;
- (c) the date it was prescribed or furnished;
- (d) the dates you began and stopped taking it; and
- (e) the cost to date.

☒ 6.6 Are there any other medical services necessitated by the injuries that you attribute to the INCIDENT that were not previously listed (for example, ambulance, nursing, prosthetics)? If so, for each service state

- (a) the nature;
- (b) the date;
- (c) the cost; and
- (d) the name, ADDRESS, and telephone number of each provider.

☒ 6.7 Has any HEALTH CARE PROVIDER advised that you may require future or additional treatment for any injuries that you attribute to the INCIDENT? If so, for each injury state:

- (a) the name and ADDRESS of each HEALTH CARE PROVIDER;
- (b) the complaints for which the treatment was advised; and
- (c) the nature, duration, and estimated cost of the treatment.

7.0 Property Damage

☒ 7.1 Do you attribute any loss of or damage to a vehicle or other property to the INCIDENT? If so, for each item of property:

- (a) describe the property;
- (b) describe the nature and location of the damage to the property;

- (c) state the amount of damage you are claiming for each item of property and how the amount was calculated; and
- (d) if the property was sold, state the name, ADDRESS, and telephone number of the seller, the date of sale, and the sale price.

☒ 7.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to the preceding interrogatory? If so, for each estimate or evaluation state:

- (a) the name, ADDRESS, and telephone number of the PERSON who prepared it and the date prepared;
- (b) the name, ADDRESS, and telephone number of each PERSON who has a copy of it; and
- (c) the amount of damage stated.

☒ 7.3 Has any item of property referred to in your answer to interrogatory 7.1 been repaired? If so, for each item state:

- (a) the date repaired;
- (b) a description of the repair;
- (c) the repair cost;
- (d) the name, ADDRESS, and telephone number of the PERSON who repaired it;
- (e) the name, ADDRESS, and telephone number of the PERSON who paid for the repair.

8.0 Loss of Income or Earning Capacity

☒ 8.1 Do you attribute any loss of income or earning capacity to the INCIDENT? (If your answer is "no," do not answer interrogatories 8.2 through 8.8).

☒ 8.2 State:

- (a) the nature of your work;
- (b) your job title at the time of the INCIDENT; and
- (c) the date your employment began.

☒ 8.3 State the last date before the INCIDENT that you worked for compensation.

☒ 8.4 State your monthly income at the time of the INCIDENT and how the amount was calculated.

☒ 8.5 State the date you returned to work at each place of employment following the INCIDENT.

☒ 8.6 State the dates you did not work and for which you lost income as a result of the INCIDENT.

☒ 8.7 State the total income you have lost to date as a result of the INCIDENT and how the amount was calculated.

☒ 8.8 Will you lose income in the future as a result of the INCIDENT? If so, state:

- (a) the facts upon which you base this contention;
- (b) an estimate of the amount;
- (c) an estimate of how long you will be unable to work; and
- (d) how the claim for future income is calculated.

DISC-001

9.0 Other Damages

- ☒ 9.1 Are there any other damages that you attribute to the INCIDENT? If so, for each item of damage state:
- (a) the nature;
 - (b) the date it occurred;
 - (c) the amount; and
 - (d) the name, ADDRESS, and telephone number of each PERSON to whom an obligation was incurred.

- ☒ 9.2 Do any DOCUMENTS support the existence or amount of any item of damages claimed in interrogatory 9.1? If so, describe each document and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.

10.0 Medical History

- ☒ 10.1 At any time before the INCIDENT did you have complaints or injuries that involved the same part of your body claimed to have been injured in the INCIDENT? If so, for each state:
- (a) a description of the complaint or injury;
 - (b) the dates it began and ended; and
 - (c) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER whom you consulted or who examined or treated you.

- ☒ 10.2 List all physical, mental, and emotional disabilities you had immediately before the INCIDENT. (You may omit mental or emotional disabilities unless you attribute any mental or emotional injury to the INCIDENT.)

- ☒ 10.3 At any time after the INCIDENT, did you sustain injuries of the kind for which you are now claiming damages? If so, for each incident giving rise to an injury state:

- (a) the date and the place it occurred;
- (b) the name, ADDRESS, and telephone number of any other PERSON involved;
- (c) the nature of any injuries you sustained;
- (d) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER who you consulted or who examined or treated you; and
- (e) the nature of the treatment and its duration.

11.0 Other Claims and Previous Claims

- ☒ 11.1 Except for this action, in the past 10 years have you filed an action or made a written claim or demand for compensation for your personal injuries? If so, for each action, claim, or demand state:
- (a) the date, time, and place and location (closest street ADDRESS or intersection) of the INCIDENT giving rise to the action, claim, or demand;
 - (b) the name, ADDRESS, and telephone number of each PERSON against whom the claim or demand was made or the action filed;

- (c) the court, names of the parties, and case number of any action filed;
- (d) the name, ADDRESS, and telephone number of any attorney representing you;
- (e) whether the claim or action has been resolved or is pending; and
- (f) a description of the injury.

- ☒ 11.2 In the past 10 years have you made a written claim or demand for workers' compensation benefits? If so, for each claim or demand state:

- (a) the date, time, and place of the INCIDENT giving rise to the claim;
- (b) the name, ADDRESS, and telephone number of your employer at the time of the injury;
- (c) the name, ADDRESS, and telephone number of the workers' compensation insurer and the claim number;
- (d) the period of time during which you received workers' compensation benefits;
- (e) a description of the injury;
- (f) the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER who provided services; and
- (g) the case number at the Workers' Compensation Appeals Board.

12.0 Investigation—General

- ☒ 12.1 State the name, ADDRESS, and telephone number of each individual:

- (a) who witnessed the INCIDENT or the events occurring immediately before or after the INCIDENT;
- (b) who made any statement at the scene of the INCIDENT;
- (c) who heard any statements made about the INCIDENT by any individual at the scene; and
- (d) who YOU OR ANYONE ACTING ON YOUR BEHALF claim has knowledge of the INCIDENT (except for expert witnesses covered by Code of Civil Procedure section 2034)

- ☒ 12.2 Have YOU OR ANYONE ACTING ON YOUR BEHALF interviewed any individual concerning the INCIDENT? If so, for each individual state:

- (a) the name, ADDRESS, and telephone number of the individual interviewed;
- (b) the date of the interview; and
- (c) the name, ADDRESS, and telephone number of the PERSON who conducted the interview.

- ☒ 12.3 Have YOU OR ANYONE ACTING ON YOUR BEHALF obtained a written or recorded statement from any individual concerning the INCIDENT? If so, for each statement state:

- (a) the name, ADDRESS, and telephone number of the individual from whom the statement was obtained;
- (b) the name, ADDRESS, and telephone number of the individual who obtained the statement;
- (c) the date the statement was obtained; and
- (d) the name, ADDRESS, and telephone number of each PERSON who has the original statement or a copy.

DISC-001

☒ 12.4 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any photographs, films, or videotapes depicting any place, object, or individual concerning the INCIDENT or plaintiff's injuries? If so, state:

- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, ADDRESS, and telephone number of the individual taking the photographs, films, or videotapes; and
- (e) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy of the photographs, films, or videotapes.

☒ 12.5 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310) concerning the INCIDENT? If so, for each item state:

- (a) the type (i.e., diagram, reproduction, or model);
- (b) the subject matter; and
- (c) the name, ADDRESS, and telephone number of each PERSON who has it.

☒ 12.6 Was a report made by any PERSON concerning the INCIDENT? If so, state:

- (a) the name, title, identification number, and employer of the PERSON who made the report;
- (b) the date and type of report made;
- (c) the name, ADDRESS, and telephone number of the PERSON for whom the report was made; and
- (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy of the report.

☒ 12.7 Have YOU OR ANYONE ACTING ON YOUR BEHALF inspected the scene of the INCIDENT? If so, for each inspection state:

- (a) the name, ADDRESS, and telephone number of the individual making the inspection (except for expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310); and
- (b) the date of the inspection.

13.0 Investigation—Surveillance

☐ 13.1 Have YOU OR ANYONE ACTING ON YOUR BEHALF conducted surveillance of any individual involved in the INCIDENT or any party to this action? If so, for each surveillance state:

- (a) the name, ADDRESS, and telephone number of the individual or party;
- (b) the time, date, and place of the surveillance;
- (c) the name, ADDRESS, and telephone number of the individual who conducted the surveillance; and
- (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy of any surveillance photograph, film, or videotape.

☐ 13.2 Has a written report been prepared on the surveillance? If so, for each written report state:

- (a) the title;
- (b) the date;
- (c) the name, ADDRESS, and telephone number of the individual who prepared the report; and
- (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy.

14.0 Statutory or Regulatory Violations

☐ 14.1 Do YOU OR ANYONE ACTING ON YOUR BEHALF contend that any PERSON involved in the INCIDENT violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the INCIDENT? If so, identify the name, ADDRESS, and telephone number of each PERSON and the statute, ordinance, or regulation that was violated.

☐ 14.2 Was any PERSON cited or charged with a violation of any statute, ordinance, or regulation as a result of this INCIDENT? If so, for each PERSON state:

- (a) the name, ADDRESS, and telephone number of the PERSON;
- (b) the statute, ordinance, or regulation allegedly violated;
- (c) whether the PERSON entered a plea in response to the citation or charge and, if so, the plea entered; and
- (d) the name and ADDRESS of the court or administrative agency, names of the parties, and case number.

15.0 Denials and Special or Affirmative Defenses

☐ 15.1 Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:

- (a) state all facts upon which you base the denial or special or affirmative defense;
- (b) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts; and
- (c) identify all DOCUMENTS and other tangible things that support your denial or special or affirmative defense, and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.

16.0 Defendant's Contentions—Personal Injury

☐ 16.1 Do you contend that any PERSON, other than you or plaintiff, contributed to the occurrence of the INCIDENT or the injuries or damages claimed by plaintiff? If so, for each PERSON:

- (a) state the name, ADDRESS, and telephone number of the PERSON;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

☐ 16.2 Do you contend that plaintiff was not injured in the INCIDENT? If so:

- (a) state all facts upon which you base your contention;
- (b) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
- (c) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

DISC-001

- ☐ 16.3 Do you contend that the injuries or the extent of the injuries claimed by plaintiff as disclosed in discovery proceedings thus far in this case were not caused by the INCIDENT? If so, for each injury:
- identify it;
 - state all facts upon which you base your contention;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- ☐ 16.4 Do you contend that any of the services furnished by any HEALTH CARE PROVIDER claimed by plaintiff in discovery proceedings thus far in this case were not due to the INCIDENT? If so:
- identify each service;
 - state all facts upon which you base your contention;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- ☐ 16.5 Do you contend that any of the costs of services furnished by any HEALTH CARE PROVIDER claimed as damages by plaintiff in discovery proceedings thus far in this case were not necessary or unreasonable? If so:
- identify each cost;
 - state all facts upon which you base your contention;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- ☐ 16.6 Do you contend that any part of the loss of earnings or income claimed by plaintiff in discovery proceedings thus far in this case was unreasonable or was not caused by the INCIDENT? If so:
- identify each part of the loss;
 - state all facts upon which you base your contention;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- ☐ 16.7 Do you contend that any of the property damage claimed by plaintiff in discovery Proceedings thus far in this case was not caused by the INCIDENT? If so:
- identify each item of property damage;
 - state all facts upon which you base your contention;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- ☐ 16.8 Do you contend that any of the costs of repairing the property damage claimed by plaintiff in discovery proceedings thus far in this case were unreasonable? If so:
- identify each cost item;
 - state all facts upon which you base your contention;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts; and
 - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- ☐ 16.9 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT (for example, insurance bureau index reports) concerning claims for personal injuries made before or after the INCIDENT by a plaintiff in this case? If so, for each plaintiff state:
- the source of each DOCUMENT;
 - the date each claim arose;
 - the nature of each claim; and
 - the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- ☐ 16.10 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT concerning the past or present physical, mental, or emotional condition of any plaintiff in this case from a HEALTH CARE PROVIDER not previously identified (except for expert witnesses covered by Code of Civil Procedure sections 2034.210-2034.310)? If so, for each plaintiff state:
- the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER;
 - a description of each DOCUMENT; and
 - the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 17.0 Responses to Request for Admissions**
- ☐ 17.1 Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:
- state the number of the request;
 - state all facts upon which you base your response;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts; and
 - identify all DOCUMENTS and other tangible things that support your response and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 18.0 [Reserved]
- 18.0 [Reserved]
- 20.0 How the Incident Occurred—Motor Vehicle**
- ☐ 20.1 State the date, time, and place of the INCIDENT (closest street ADDRESS or intersection).
- ☐ 20.2 For each vehicle involved in the INCIDENT, state:
- the year, make, model, and license number;
 - the name, ADDRESS, and telephone number of the driver;

DISC-001

- (c) the name, ADDRESS, and telephone number of each occupant other than the driver;
- (d) the name, ADDRESS, and telephone number of each registered owner;
- (e) the name, ADDRESS, and telephone number of each lessee;
- (f) the name, ADDRESS, and telephone number of each owner other than the registered owner or lien holder; and
- (g) the name of each owner who gave permission or consent to the driver to operate the vehicle.

- (d) state the name, ADDRESS, and telephone number of each PERSON who has custody of each defective part.

- ☐ 20.11 State the name, ADDRESS, and telephone number of each owner and each PERSON who has had possession since the INCIDENT of each vehicle involved in the INCIDENT.

25.0 [Reserved]

30.0 [Reserved]

40.0 [Reserved]

50.0 Contract

- ☐ 20.3 State the ADDRESS and location where your trip began and the ADDRESS and location of your destination.

- ☐ 20.4 Describe the route that you followed from the beginning of your trip to the location of the INCIDENT, and state the location of each stop, other than routine traffic stops, during the trip leading up to the INCIDENT.

- ☐ 20.5 State the name of the street or roadway, the lane of travel, and the direction of travel of each vehicle involved in the INCIDENT for the 500 feet of travel before the INCIDENT.

- ☐ 20.6 Did the INCIDENT occur at an intersection? If so, describe all traffic control devices, signals, or signs at the intersection.

- ☐ 20.7 Was there a traffic signal facing you at the time of the INCIDENT? If so, state:

- (a) your location when you first saw it;
- (b) the color;
- (c) the number of seconds it had been that color; and
- (d) whether the color changed between the time you first saw it and the INCIDENT.

- ☐ 20.8 State how the INCIDENT occurred, giving the speed, direction, and location of each vehicle involved:

- (a) just before the INCIDENT;
- (b) at the time of the INCIDENT; and (c) just after the INCIDENT.

- ☐ 20.9 Do you have information that a malfunction or defect in a vehicle caused the INCIDENT? If so:

- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, ADDRESS, and telephone number of each PERSON who is a witness to or has information about each malfunction or defect; and
- (d) state the name, ADDRESS, and telephone number of each PERSON who has custody of each defective part.

- ☐ 20.10 Do you have information that any malfunction or defect in a vehicle contributed to the injuries sustained in the INCIDENT? If so:

- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, ADDRESS, and telephone number of each PERSON who is a witness to or has information about each malfunction or defect; and

- ☒ 50.1 For each agreement alleged in the pleadings:

- (a) identify each DOCUMENT that is part of the agreement and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT;
- (b) state each part of the agreement not in writing, the name, ADDRESS, and telephone number of each PERSON agreeing to that provision, and the date that part of the agreement was made;
- (c) identify all DOCUMENTS that evidence any part of the agreement not in writing and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT;
- (d) identify all DOCUMENTS that are part of any modification to the agreement and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT;
- (e) state each modification not in writing, the date, and the name, ADDRESS, and telephone number of each PERSON agreeing to the modification, and the date the modification was made;
- (f) identify all DOCUMENTS that evidence any modification of the agreement not in writing and for each state the name, ADDRESS, and telephone number of each PERSON who has the DOCUMENT.

- ☒ 50.2 Was there a breach of any agreement alleged in the pleadings? If so, for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.

- ☒ 50.3 Was performance of any agreement alleged in the pleadings excused? If so, identify each agreement excused and state why performance was excused.

- ☒ 50.4 Was any agreement alleged in the pleadings terminated by mutual agreement, release, accord and satisfaction, or novation? If so, identify each agreement terminated, the date of termination, and the basis of the termination.

- ☒ 50.5 Is any agreement alleged in the pleadings unenforceable? If so, identify each unenforceable agreement and state why it is unenforceable.

- ☒ 50.6 Is any agreement alleged in the pleadings ambiguous? If so, identify each ambiguous agreement and state why it is ambiguous.

60.0 [Reserved]

CASE NAME: Brown v. State Farm
ACTION NO.: RG07304927

PROOF OF SERVICE

I am a citizen of the United States. My business address is 203 Redwood Shores Pkwy., Ste. 480, Redwood Shores, California 94065. I am employed in the County of San Mateo where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S FORM INTERROGATORIES, SET ONE

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Redwood City, California.
- ☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

John T. Bell
 LAW OFFICES OF JOHN T. BELL
 610 - 16th Street, Suite 421
 Oakland, CA 94612
 Telephone: 510.444.4638
 Facsimile: 510.444.4019

Attorneys for Plaintiff
JAMES BROWN

- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 18, 2007, at Redwood City, California.


 Abigail Bowman

EXHIBIT 5

JOHN T. BELL, SBN 209941
Law Offices of John T. Bell
610-16th Street, Suite 421
Oakland, CA 94612
TEL: 510-444-4638
FAX: 510-444-4019

HAYES, DAVIS, BONINO, ELLINGSON, McLAY & SCOTT	
MAY 21 2007	
CALENDARED	7/5-40 to 60
CORR.	PLDG.
DISC.	OTHER

col 1135
HTC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA-UNLIMITED JURISDICTION

JAMES BROWN

Plaintiff,

vs.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY AND DOES I
through 25 INCLUSIVE,
Defendants.

Case No. RG07304927

PLAINTIFF'S RESPONSE TO
DEFENDANT'S FORM
INTERROGATORIES, SET ONE

PROPOUNDING PARTY: DEFENDANT STATE FARM

RESPONDING PARTY: PLAINTIFF JAMES BROWN

SET NUMBER: ONE

Pursuant to Section 2030.010 of the California Code of Civil Procedure, Plaintiff James Brown (hereinafter "plaintiff") hereby responds to Defendant State Farm Mutual Automobile Insurance Company's First Set of Form Interrogatories as follows:

COMMON OBJECTIONS

These Responses are made solely for the purposes of this action, and each Response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and

any and all other grounds which would require the exclusion of any information contained herein if the Interrogatories were asked at the time of trial. All objections are therefore reserved and may be interposed at the time of trial.

Plaintiff objects to each of the Interrogatories insofar as and to the extent they are overbroad, oppressive and unduly burdensome, vague and ambiguous, duplicative, seek material not relevant to the subject matter or time period involved in the pending litigation, and/or are not reasonably calculated to lead to the discovery of admissible evidence.

Plaintiff objects to each of the Interrogatories insofar as and to the extent they seek information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other privilege.

Plaintiff objects to each of the Interrogatories insofar as and to the extent they purport to impose on it obligations other than those imposed by the California Code of Civil Procedure section 2030.010.

Plaintiff has not completed his investigation of the facts, witnesses, and documents related to this case, and has not completed discovery or preparation for trial. Therefore, while a good faith effort is being made to respond to the Interrogatories, it may not be possible to make an unqualified Response. Furthermore, these Responses are necessarily made without prejudice to defendants' right to amend or supplement these Responses in reliance on subsequently discovered facts, witnesses, documents, exhibits and statements.

SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES

Without waiving or limiting in any manner any of the foregoing Common Objections, but rather incorporating them by reference into each of the Responses set forth below, plaintiff responds further to each Interrogatory as follows:

III

III

III

III

FORM INTERROGATORIES

RESPONSE TO FORM INTERROGATORY NO. 1.1:

John T. Bell of the Law Offices of John T. Bell (510) 444-4638 counsel for plaintiff.

RESPONSE TO FORM INTERROGATORY NO. 2.1:

- a. James Brown
- b. I have only used one name which is stated above; and
- c. None.

RESPONSE TO FORM INTERROGATORY NO. 2.2:

September 3, 1969; Berkeley, California

RESPONSE TO FORM INTERROGATORY NO. 2.3:

- (a) California
- (b) C7023129
- (c) 1985
- (d) None

RESPONSE TO FORM INTERROGATORY NO. 2.4:

None

RESPONSE TO FORM INTERROGATORY NO. 2.5:

- (a) 190 Seacrest Circle, Vallejo, CA 94590; (April 05 to the present)
- (b) The Woodchase Apartments, E.14th & San Leandro Blvd., San Leandro, CA;
(April 2002 to April 2005)

RESPONSE TO FORM INTERROGATORY NO. 2.6:

Alta Bates Hospital, 2850 Ashby Ave; 510-204-4444); From 1995 to the present.

RESPONSE TO FORM INTERROGATORY NO. 2.7:

- a. Berkeley High, Berkeley, California;
- b. Berkeley (1984-87)
- c. 11th
- d. None

RESPONSE TO FORM INTERROGATORY NO. 2.8:

- (a) Oakland, CA
- (b) 1995
- (c) Plaintiff is informed and believes Health and Safety Code 11351.5
- (d) Alameda County, Case # unknown

RESPONSE TO FORM INTERROGATORY NO. 2.9:

Yes

RESPONSE TO FORM INTERROGATORY NO. 2.10:

Yes

RESPONSE TO FORM INTERROGATORY NO. 2.11:

No

RESPONSE TO FORM INTERROGATORY NO. 2.12:

No

RESPONSE TO FORM INTERROGATORY NO. 2.13:

No

RESPONSE TO FORM INTERROGATORY 4.1

State Farm Insurance, policy no.0994048B The defendant is in possession of all information regarding said policy

1 RESPONSE TO FORM INTERROGATORY 4.2

2 No

3 RESPONSE TO FORM INTERROGATORY NO. 6.1:

4 Yes

5 RESPONSE TO FORM INTERROGATORY NO. 6.2:

6 Physical and emotional injuries: headaches and inability to sleep at night

7 RESPONSE TO FORM INTERROGATORY NO. 6.3:

- 8
- 9 a. headaches
- 10 b. Remaining the same
- 11 c. Constant
- 12

13 RESPONSE TO FORM INTERROGATORY NO. 6.4:

14 No

15 RESPONSE TO FORM INTERROGATORY NO. 6.5:

- 16 a. Motrin and Aspirin
- 17 b. Self-prescribed
- 18 c. unknown
- 19 d. Plaintiff does not remember the date he started taking the medication. Plaintiff is
- 20 currently taking the medication
- 21
- 22 e. unknown
- 23

24 RESPONSE TO FORM INTERROGATORY NO. 6.6:

25 No

26 RESPONSE TO FORM INTERROGATORY NO. 6.7:

27 No

28

1 **RESPONSE TO FORM INTERROGATORY NO. 7.1:**

2 (a) 2004 Harley Davidson Road King

3 (b) The motorcycle was stolen

4 (c) Approximately \$42,000.00

5 (d) The property was stolen

6
7 **RESPONSE TO FORM INTERROGATORY NO. 7.2:**

8 (a) California Motorcycle Specialist; 1759 Le Febvre Way, Pinole, CA 94564; 510-
9 685-1340

10 (b) Law Offices of John T. Bell and defendant

11 (c) \$42,740.00

12
13 **RESPONSE TO FORM INTERROGATORY NO. 7.3:**

14 The property was stolen

15 **RESPONSE TO FORM INTERROGATORY NO. 8.1:**

16 No

17
18 **RESPONSE TO FORM INTERROGATORY NO. 8.2:**

19 Not Applicable

20 **RESPONSE TO FORM INTERROGATORY NO. 8.3:**

21 Not Applicable

22 **RESPONSE TO FORM INTERROGATORY NO. 8.4:**

23 Not Applicable

24
25 **RESPONSE TO FORM INTERROGATORY NO. 8.5:**

26 Not Applicable

1 RESPONSE TO FORM INTERROGATORY NO. 8.6:

2 Not Applicable

3 RESPONSE TO FORM INTERROGATORY NO. 8.7:

4 Not Applicable

5 RESPONSE TO FORM INTERROGATORY NO. 8.8:

6 Not Applicable

7 RESPONSE TO FORM INTERROGATORY NO. 9.1:

8 No

9 RESPONSE TO FORM INTERROGATORY NO. 9.2:

10 Not Applicable

11 RESPONSE TO FORM INTERROGATORY NO. 10.1:

12 Plaintiff was not experiencing headaches prior to the incident

13 RESPONSE TO FORM INTERROGATORY NO. 10.2:

14 None

15 RESPONSE TO FORM INTERROGATORY NO. 10.3:

16 None

17 RESPONSE TO FORM INTERROGATORY NO. 11.1:

18 No

19 RESPONSE TO FORM INTERROGATORY NO. 11.2:

20 No

21 RESPONSE TO FORM INTERROGATORY NO. 12.1:

22 (a) Plaintiff

23 (b) Same as above

(c) Same as above

(d) None

RESPONSE TO FORM INTERROGATORY NO. 12.2:

Plaintiff objects to this Interrogatory on the grounds that it calls for information protected by the work product doctrine and attorney-client communication privilege. (*Nacht & Lewis Architects, Inc. v. Superior Court* (1996) 47 Cal.App.4th 214.) Without waiving the foregoing objections: Plaintiff has not interviewed any individuals concerning the incident as alleged in Plaintiff's complaint.

RESPONSE TO FORM INTERROGATORY NO. 12.3:

This interrogatory calls for information protected by the work product doctrine. (*Nacht & Lewis Architects, Inc. v. Superior Court* (1996) 47 Cal.App.4th 214.) Without waiving the foregoing objection: None.

RESPONSE TO FORM INTERROGATORY NO. 12.4:

This interrogatory calls for information protected by the work product doctrine. (*Nacht & Lewis Architects, Inc. v. Superior Court* (1996) 47 Cal.App.4th 214.) Without waiving the foregoing objection: Without waiving the foregoing objection: Plaintiff is attempting to locate a video of the area where the accident occurred

RESPONSE TO FORM INTERROGATORY NO. 12.5:

Plaintiff objects to this Interrogatory on the grounds that this interrogatory calls for information protected by the attorney client privilege and work product doctrine. (*Nacht & Lewis Architects, Inc. v. Superior Court* (1996) 47 Cal.App.4th 214.) Without waiving the foregoing objection: None.

RESPONSE TO FORM INTERROGATORY NO. 12.6:

Plaintiff objects to this Interrogatory on the grounds that this interrogatory calls for information protected by the attorney client privilege and work product doctrine. (*Nacht & Lewis Architects, Inc. v. Superior Court* (1996) 47 Cal.App.4th 214.) Without waiving the

1 foregoing objection, Plaintiff is informed and believes that he filed a report with the Oakland
2 Police Department

3 **RESPONSE TO FORM INTERROGATORY NO. 12.7:**

4 Plaintiff objects to this Interrogatory on the grounds that it calls for information protected
5 by the attorney client privilege and work product doctrine. (*Nacht & Lewis Architects, Inc. v.*
6 *Superior Court* (1996) 47 Cal.App.4th 214.) Without waiving the foregoing objection: No.

7 **RESPONSE TO FORM INTERROGATORY NO. 50.1:**

- 8 (a) The insurance contract; State Farm Insurance Company
9 (b) None
10 (c) None
11 (d) None
12 (e) None
13 (f) None
14

15 **RESPONSE TO FORM INTERROGATORY NO. 50.2:**

16 The defendant breached the agreement when, among other things, when defendant did
17 not attempt to fairly settle plaintiff's claim, not returning plaintiff's calls regarding the status of
18 his claim, and refusing to timely provide policy benefits.

19 **RESPONSE TO FORM INTERROGATORY NO. 50.3:**

20 Examination Under Oath ("EUO"). Defendant waived its right to an EUO when it failed
21 to request and EUO prior to the filing of plaintiff's civil action.

22 **RESPONSE TO FORM INTERROGATORY NO. 50.4:**

23 No.

24 **RESPONSE TO FORM INTERROGATORY NO. 50.5:**

25 Examination Under Oath ("EUO"). Defendant waived its right to an EUO when it failed
26 to request and EUO prior to the filing of plaintiff's civil action.

27 \\\

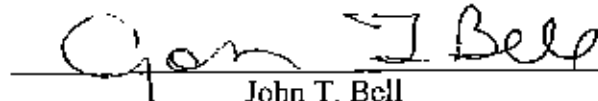
28 \\\

RESPONSE TO FORM INTERROGATORY NO. 50.6:

No.

DATES: May 7, 2007

Law Offices of John T. Bell



John T. Bell

Attorney for Plaintiff James Brown

VERIFICATION

I, James Brown, declare:

I am the plaintiff in the above-entitled action. I have read the foregoing Form Interrogatories, Set One, and state that the information contained therein is true and correct, except for those matters stated therein on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Vallejo, CA, on the date listed below.

Dated: 5-7-07

Signed: James Brown
James Brown

1 CASE NAME: Brown v. State Farm Insurance
2 ACTION NO.: RG07334927

3 PROOF OF SERVICE

4 I am a citizen of the United States. My business address is 610 - 16TH St., Ste.
5 421, Oakland, CA 94612. I am employed in the County of Alameda where this service occurs. I
6 am over the age of 18 years, and not a party to the within cause. I am readily familiar with my
7 employer's normal business practice for collection and processing of correspondence for mailing
8 with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S.
9 Postal Service the same day of collection in the ordinary course of business.

10 On the date set forth below, following ordinary business practice, I served a true copy of the
11 foregoing document(s) described as: **PLAINTIFF'S RESPONSE TO DEFENDANT'S**
12 **FORM INTERROGATORIES SET ONE**

13 _____ (BY Personal Delivery) by personally delivering true copies to said person at the
14 following address:

15 ✓ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be place in
16 the United States mail at Oakland, California to said person at the following address:

17 Stephen M. Ellingson, Esq
18 Hayes Davis Bonino Ellingson McLay & Scott, LLP
19 203 Redwood Shore Pkwy., Suite 480
20 Redwood City, CA 94065

21 I declare under penalty of perjury under the laws of the State of California that the above
22 is true and correct.

23 Executed on May 15, 2007 at Oakland, California.

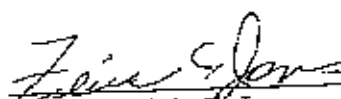
24 
25 Felicia E. Jones
26
27
28

EXHIBIT 6

1 STEPHEN M. HAYES (SBN 83583)
STEPHEN P. ELLINGSON (SBN 136505)
2 JAMIE A. RADACK (SBN 221000)
HAYES DAVIS BONINO ELLINGSON McLAY & SCOTT, LLP
3 203 Redwood Shores Pkwy., Suite 480
Redwood City, CA 94065
4 Telephone: 650.637-9100
Facsimile: 650.637-8071
5
6 Attorney for Defendant
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

10 JAMES BROWN,

CASE NO. RG07304927

11 Plaintiff,

12 v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY'S SPECIAL
INTERROGATORIES TO PLAINTIFF,
SET ONE

13
14 STATE FARM GENERAL INSURANCE
COMPANY; and DOES 1 through 25, inclusive,
15 Defendants.
16

17 PROPOUNDING PARTY: Defendant STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

18
19 RESPONDING PARTY: Plaintiff JAMES BROWN

20 SET NUMBER: One

21 INSTRUCTIONS

22 Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY requests
23 that responding party answer the following interrogatories under oath within thirty (30) days from
24 the date of service pursuant to California Code of Civil Procedure §2030.260.

25 In answering these interrogatories you must furnish all information known or available to
26 you regardless of whether this information is possessed directly by you, by your agents, employees,
27 representatives or investigators.

28 Each of your answers must be as complete and straightforward as the information

1 reasonably available to you permits. If you cannot answer an interrogatory in full after exercising
2 due diligence to secure the information to do so, so state, and answer to the fullest extent possible,
3 specifying the reasons for your inability to completely respond and stating whatever information,
4 knowledge or relief you have concerning the unanswered portion.

5 If you do not have enough personal knowledge to fully answer an interrogatory, say so, but
6 make a reasonable and good faith effort to get the information by asking other persons or
7 organizations, unless the information is equally available to Propounding Party.

8 Whenever an interrogatory may be answered by referring to a document, the document may
9 be attached as an exhibit to the response and referred to in the response. If the document has more
10 than one page, refer to the page and section where the answer to the interrogatory can be found.

11 DEFINITIONS

12 PERSON: Refers to the plural as well as the singular, means any natural person, firm,
13 association, partnership, corporation, public entity, or any other form of legal entity or governmental
14 body unless the context indicates otherwise.

15 DOCUMENTS: As defined in Evidence Code §250, and includes the original, copy or
16 electronic storage of handwriting, typewriting, printing, photostating, photographing, and every
17 other means of recording upon any tangible thing and form of communicating or representation,
18 including, letters, words, pictures, sounds, or symbols, or combinations of them.

19 IDENTIFY:

20 A. When used in reference to a natural PERSON, means to state such
21 person's full name, last-known home and business address, last-
22 known business affiliation, employer, and position therewith, and the
23 latest date that such information was true, to your knowledge;

24 B. When used in reference to a business, firm, partnership, joint venture,
25 company or corporation, means to state, to the extent known, its full
26 name, state of incorporation or creation, address of its principal place
27 of business, and its principal activities or products;

28 C. When used in reference to DOCUMENTS or WRITINGS, means to

1 describe specifically the document, including a description of its type
 2 (e.g., letter, memorandum, telegram, chart, etc.), and to state its date,
 3 author, addressee, title, file identification number or symbol, and to
 4 identify the present location and the name and address of the present
 5 custodian of such document. If any such document is no longer in
 6 your possession or subject to your control, state what disposition was
 7 made of it and the date of such disposition, identifying the person
 8 having knowledge of its content.

9 YOU or YOUR: Plaintiff JAMES BROWN, YOUR agents, YOUR employees, YOUR
 10 attorneys, YOUR accountants, YOUR investigators, and anyone else acting on YOUR behalf.

11 STATE FARM: Means defendant STATE FARM MUTUAL AUTOMOBILE
 12 INSURANCE COMPANY.

13 DESCRIBE: Means to state in full and complete detail the facts and circumstances
 14 of the thing, act or incident as well as dates occurred and individuals involved.

15 SPECIAL INTERROGATORIES

16 SPECIAL INTERROGATORY NO. 1:

17 State each and every fact on which YOU base YOUR contention that STATE FARM is
 18 liable to YOU for breach of contract.

19 SPECIAL INTERROGATORY NO. 2:

20 IDENTIFY each and every PERSON who has any knowledge of any of the facts that refer,
 21 relate or pertain to YOUR contention that STATE FARM is liable to YOU for breach of contract.

22 SPECIAL INTERROGATORY NO. 3:

23 IDENTIFY each and every DOCUMENT that refers, relates or pertains to any of the facts
 24 on which YOU base YOUR contention that STATE FARM is liable to YOU for breach of contract.

25 SPECIAL INTERROGATORY NO. 4:

26 State the amount of damages for which YOU contend STATE FARM is liable to YOU
 27 arising from STATE FARM's alleged breach of contract.

SPECIAL INTERROGATORY NO. 5:

State each and every fact on which YOU base YOUR contention that STATE FARM is liable to YOU for breach of the covenant of good faith and fair dealing.

SPECIAL INTERROGATORY NO. 6:

IDENTIFY each and every PERSON who has any knowledge of any of the facts that refer, relate or pertain to YOUR contention that STATE FARM is liable to YOU for breach of the covenant of good faith and fair dealing.

SPECIAL INTERROGATORY NO. 7:

IDENTIFY each and every DOCUMENT that refers, relates or pertains to any of the facts on which YOU base YOUR contention that STATE FARM is liable to YOU for breach of the covenant of good faith and fair dealing.

SPECIAL INTERROGATORY NO. 8:

DESCRIBE in full and complete detail any symptoms of emotional distress which YOU claim were caused by STATE FARM's alleged breach of the implied covenant of good faith and fair dealing.

SPECIAL INTERROGATORY NO. 9:

State the amount of damages for which YOU contend STATE FARM is liable to YOU arising from STATE FARM's alleged breach of the implied covenant of good faith and fair dealing, including, but not limited to, damages arising from any claimed emotional distress.

SPECIAL INTERROGATORY NO. 10:

State each and every fact on which YOU base YOUR contention that STATE FARM is liable to YOU for punitive damages.

SPECIAL INTERROGATORY NO. 11:

IDENTIFY each and every PERSON who has any knowledge of any of the facts that refer, relate or pertain to YOUR contention that STATE FARM is liable to YOU for punitive damages.

SPECIAL INTERROGATORY NO. 12:

IDENTIFY each and every DOCUMENT that refers, relates or pertains to any of the facts on which YOU base YOUR contention that STATE FARM is liable to YOU for punitive damages.

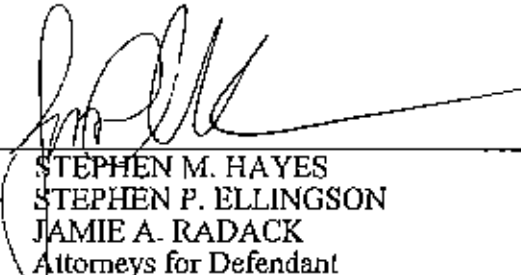
1 SPECIAL INTERROGATORY NO. 13:

2 State the amount of punitive damages for which YOU contend STATE FARM is liable to
3 YOU.

4 Dated: April 18, 2007

HAYES DAVIS BONINO ELLINGSON
McLAY & SCOTT, LLP

By


STEPHEN M. HAYES
STEPHEN P. ELLINGSON
JAMIE A. RADACK
Attorneys for Defendant
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

CASE NAME: Brown v. State Farm
ACTION NO.: RG07304927

PROOF OF SERVICE

I am a citizen of the United States. My business address is 203 Redwood Shores Pkwy., Ste. 480, Redwood Shores, California 94065. I am employed in the County of San Mateo where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S SPECIAL INTERROGATORIES TO PLAINTIFF, SET ONE

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Redwood City, California.
- ☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

John T. Bell
 LAW OFFICES OF JOHN T. BELL
 610 - 16th Street, Suite 421
 Oakland, CA 94612
 Telephone: 510.444.4638
 Facsimile: 510.444.4019

Attorneys for Plaintiff
JAMES BROWN

- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 18, 2007, at Redwood City, California.


 Abigail Bowman

EXHIBIT 7

1 any and all other grounds which would require the exclusion of any information contained herein
 2 if the Interrogatories were asked at the time of trial. All objections are therefore reserved and
 3 may be interposed at the time of trial.

4
 5 Plaintiff objects to each of the Interrogatories insofar as and to the extent they are
 6 overbroad, oppressive and unduly burdensome, vague and ambiguous, duplicative, seek material
 7 not relevant to the subject matter or time period involved in the pending litigation, and/or are not
 8 reasonably calculated to lead to the discovery of admissible evidence.

9
 10 Plaintiff objects to each of the Interrogatories insofar as and to the extent they seek
 11 information protected from disclosure by the attorney-client privilege, the attorney work product
 12 doctrine, or any other privilege.

13
 14 Plaintiff objects to each of the Interrogatories insofar as and to the extent they purport to
 15 impose on it obligations other than those imposed by the California Code of Civil Procedure
 16 section 2030.010.

17
 18 Plaintiff has not completed his investigation of the facts, witnesses, and documents
 19 related to this case, and has not completed discovery or preparation for trial. Therefore, while a
 20 good faith effort is being made to respond to the Interrogatories, it may not be possible to make
 21 an unqualified Response. Furthermore, these Responses are necessarily made without prejudice
 22 to defendants' right to amend or supplement these Responses in reliance on subsequently
 23 discovered facts, witnesses, documents, exhibits and statements.

24 SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES

25 Without waiving or limiting in any manner any of the foregoing Common Objections, but
 26 rather incorporating them by reference into each of the Responses set forth below, plaintiff
 27 responds further to each Interrogatory as follows:
 28

III

III

III

III

SPECIAL INTERROGATORIES

RESPONSE TO SPECIAL INTERROGATORY NO. 1

The defendant breached the agreement when, among other things, when defendant did not attempt to fairly settle plaintiff's claim, not returning plaintiff's calls regarding the status of his claim, and refusing to timely provide policy benefits.

RESPONSE TO SPECIAL INTERROGATORY NO. 2:

Plaintiff and Defendant.

RESPONSE TO SPECIAL INTERROGATORY NO.3:

The insurance contract and there may be other documents produced during the discovery process.

RESPONSE TO SPECIAL INTERROGATORY NO. 4:

In excess of \$25,000.00

RESPONSE TO SPECIAL INTERROGATORY NO. 5:

The defendant breached the covenant of good faith and fair dealing when, among other things, it unreasonably and in bad faith filed to make a full and air settlement of plaintiff's claims, misrepresented to plaintiff pertinent facts related to insurance coverage and made no attempts to settle plaintiff claim under the insurance policy, failed to reasonably and promptly investigate, adjust and process plaintiff's insurance claim, never attempted in good faith to effectuate a prompt, fair and equitable settlement of plaintiff's claim, refused to place the financial interest of plaintiff on an equal par with its own financial interest, and intentionally and willfully deprived plaintiff of insurance benefits which plaintiff was entitled to under the insurance policy.

RESPONSE TO SPECIAL INTERROGATORY NO. 6:

Plaintiff and Defendant.

RESPONSE TO SPECIAL INTERROGATORY NO. 7:

The insurance contract and there may be other documents produced during the discovery process.

RESPONSE TO SPECIAL INTERROGATORY NO. 8:

Headaches and inability to sleep at night.

RESPONSE TO FORM INTERROGATORY NO. 9:

In excess of \$25,000.00.

RESPONSE TO SPECIAL INTERROGATORY NO. 10:

The defendant is liable for punitive damages because among other things, it unreasonably and in bad faith failed to make a full and fair settlement of plaintiff's claims, misrepresented to plaintiff pertinent facts related to insurance coverage and made no attempts to settle plaintiff claim under the insurance policy, failed to reasonably and promptly investigate, adjust and process plaintiff's insurance claim, never attempted in good faith to effectuate a prompt, fair and equitable settlement of plaintiff's claim, refused to place the financial interest of plaintiff on an equal par with its own financial interest, and intentionally and willfully deprived plaintiff of insurance benefits which plaintiff was entitled to under the insurance policy.

RESPONSE TO SPECIAL INTERROGATORY NO. 11:

Plaintiff and Defendant.

1 RESPONSE TO SPECIAL INTERROGATORY NO. 12:

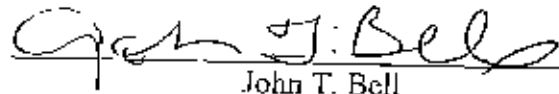
2 The insurance contract; however there may be other documents that will be produced
3 during the discovery process.
4

5 RESPONSE TO FORM INTERROGATORY NO. 13:

6 At this point, the amount of punitive damages has not yet been determined by the
7 plaintiff, because plaintiff has not conducted discovery regarding defendant's financial status.
8

9 DATES: May 7, 2007

Law Offices of John T. Bell

10
11 

John T. Bell

Attorney for Plaintiff James Brown
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, James Brown, declare.

I am the plaintiff in the above-entitled action. I have read the foregoing Special Interrogatories, Set One, and state that the information contained therein is true and correct, except for those matters stated therein on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Vallejo, CA, on the date listed below.

Dated: 5-2-07

Signed: _____

James Brown

1 CASE NAME: Brown v. State Farm Insurance
2 ACTION NO.: RG07334927
3

4 **PROOF OF SERVICE**

5 I am a citizen of the United States. My business address is 610 - 16TH St., Ste.
6 421.Oakland, CA 94612. I am employed in the County of Alameda where this service occurs. I
7 am over the age of 18 years, and not a party to the within cause. I am readily familiar with my
8 employer's normal business practice for collection and processing of correspondence for mailing
9 with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S.
10 Postal Service the same day of collection in the ordinary course of business.

11 On the date set forth below, following ordinary business practice, I served a true copy of the
12 foregoing document(s) described as: **PLAINTIFF'S RESPONSE TO DEFENDANT'S**
13 **SPECIAL INTERROGATORIES, SET ONE**

14 _____ (BY Personal Delivery) by personally delivering true copies to said person at the
15 following address:

16 _____ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be place in
17 the United States mail at Oakland, California to said person at the following address:

18 Stephen M. Ellingson, Esq
19 Hayes Davis Bonino Ellingson McLay & Scott, LLP
20 203 Redwood Shore Pkwy., Suite 480
21 Redwood City, CA 94065
22

23 I declare under penalty of perjury under the laws of the State of California that the above
24 is true and correct.

25 Executed on May 15, 2007 at Oakland, California.
26

27 
28 Felicia E. Jones

EXHIBIT 8

1 STEPHEN M. HAYES (SBN 83583)
STEPHEN P. ELLINGSON (SBN 136505)
2 JAMIE A. RADACK (SBN 221000)
HAYES DAVIS BONINO ELLINGSON McLAY & SCOTT, LLP
3 203 Redwood Shores Pkwy., Suite 480
Redwood City, CA 94065
4 Telephone: 650.637-9100
Facsimile: 650.637-8071

5 Attorney for Defendant
6 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

10 JAMES BROWN,

CASE NO. RG07304927

11 Plaintiff,

12 v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY'S REQUEST
FOR STATEMENT OF DAMAGES TO
PLAINTIFF

13
14 STATE FARM GENERAL INSURANCE
COMPANY; and DOES 1 through 25, inclusive,

15 Defendants.
16

17
18 TO PLAINTIFF JAMES BROWN AND TO HIS ATTORNEYS OF RECORD:

19 Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY ("State
20 Farm"), pursuant to Code of Civil Procedure section 425.11, hereby request that plaintiff JAMES
21 BROWN, set forth his statement of damages, item by item, including but not limited to each of the
22 following:

- 23 1. Hospital expenses and bills, if any;
24 2. Doctor, nurse, therapist or other medical practitioner expenses and bills, if any;
25 3. Wage or income loss, if any;
26 4. Diminution of earning capacity, if any;
27 5. Real property damage, if any;
28 6. Personal property damage, if any;

1 7. General damages, including but not limited to pain and suffering, humiliation,
2 embarrassment, loss of comfort, society, protection and support, disfigurement, etc.;

3 8. Economic damages; and

4 9. Special damages.

5 Pursuant to Code of Civil Procedure section 425.11, it is requested that response be made to
6 the undersigned within fifteen (15) days of service hereof.

7 Dated: April 18, 2007

HAYES DAVIS BONINO ELLINGSON
McLAY & SCOTT, LLP

8
9
10 By 

11 STEPHEN M. HAYES
12 STEPHEN P. ELLINGSON
13 JAMIE A. RADACK
14 Attorneys for Defendant
15 STATE FARM MUTUAL AUTOMOBILE
16 INSURANCE COMPANY
17
18
19
20
21
22
23
24
25
26
27
28

CASE NAME: Brown v. State Farm
ACTION NO.: RG07304927

PROOF OF SERVICE

I am a citizen of the United States. My business address is 203 Redwood Shores Pkwy., Ste. 480, Redwood Shores, California 94065. I am employed in the County of San Mateo where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S REQUEST FOR STATEMENT OF DAMAGES TO PLAINTIFF

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Redwood City, California.
- ☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

John T. Bell
 LAW OFFICES OF JOHN T. BELL
 610 - 16th Street, Suite 421
 Oakland, CA 94612
 Telephone: 510.444.4638
 Facsimile: 510.444.4019

Attorneys for Plaintiff
JAMES BROWN

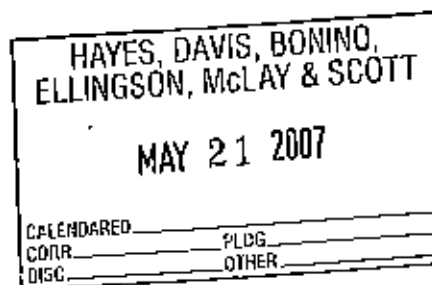
- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 18, 2007, at Redwood City, California.


 Abigail Bowman

EXHIBIT 9

JOHN T. BELL, SBN 209941
Law Offices of John T. Bell
610-16th Street, Suite 421
Oakland, CA 94612
TEL: 510-444-4638
FAX: 510-444-4019



SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA-UNLIMITED JURISDICTION

JAMES BROWN

Plaintiff,

vs.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY AND DOES 1
through 25 INCLUSIVE,
Defendants.

Case No. RG07304927

PLAINTIFF'S RESPONSE TO
DEFENDANT'S REQUEST FOR
STATEMENT OF DAMAGES

TO DEFENDANT AND ITS ATTORNEY OF RECORD

Pursuant to Code of Civil Procedure section 425.11, plaintiff responds to defendant's request as follows:

Plaintiff has not completed his investigation of the facts, witnesses, and a document related to this case, and has not completed discovery or preparation for trial. Therefore, while a good faith effort is being made to respond to this request, it may not be possible to make an unqualified Response. Furthermore, these Responses are necessarily made without prejudice to plaintiff's right to amend or supplement these Responses in reliance on subsequently discovered facts, witnesses, documents, exhibits and statements.

1. NONE;
2. NONE;
3. NONE;
4. NONE;
5. NONE
6. Appx. \$42,000.00;
7. in excess of \$25,000.00
8. undetermined; and
9. undetermined

DATED: May 14, 2007

LAW OFFICES OF JOHN T. BELL



JOHN T. BELL
Attorney for Plaintiff James Brown

VERIFICATION

I, James Brown, declare:

I am the plaintiff in the above-entitled action. I have read the foregoing Request For Statement of Damages and state that the information contained therein is true and correct, except for those matters stated therein on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Vallejo, CA, on the date listed below.

Dated: 5-7-07

Signed: James Brown
James Brown

CASE NAME: Brown v. State Farm Insurance
ACTION NO.: RG07334927

PROOF OF SERVICE

I am a citizen of the United States. My business address is 610 – 16TH St., Ste. 421, Oakland, CA 94612. I am employed in the County of Alameda where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as: **PLAINTIFF'S RESPONSE TO DEFENDANT'S REQUEST FOR STATEMENT OF DAMAGES**


____ (BY Personal Delivery) by personally delivering true copies to said person at the following address:

✓ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be place in the United States mail at Oakland, California to said person at the following address:

Stephen M. Ellingson, Esq
Hayes Davis Bonino Ellingson McLay & Scott, LLP
203 Redwood Shore Pkwy., Suite 480
Redwood City, CA 94065

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 15, 2007 at Oakland, California.


Felicia E. Jones

CASE NAME: Brown v. State Farm
ACTION NO.:

PROOF OF SERVICE

I am a citizen of the United States. My business address is 203 Redwood Shores Pkwy., Ste. 480, Redwood Shores, California 94065. I am employed in the County of San Mateo where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

**STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S NOTICE OF
REMOVAL OF CIVIL ACTION UNDER 28 U.S.C. SECTIONS 1332 AND 1441(a)
[DIVERSITY JURISDICTION]; DEMAND FOR JURY TRIAL**

- ☒ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Redwood City, California.
- ☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

John T. Bell
LAW OFFICES OF JOHN T. BELL
610 - 16th Street, Suite 421
Oakland, CA 94612
Telephone: 510.444.4638
Facsimile: 510.444.4019

**Attorneys for Plaintiff
JAMES BROWN**

- ☒ (Federal) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 23, 2007, at Redwood City, California.


Abigail Bowman